



House of Representatives

General Assembly

File No. 365

February Session, 2000

Substitute House Bill No. 5893

House of Representatives, April 3, 2000

The Committee on Government Administration and Elections reported through REP. KNOPP of the 137th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

An Act Limiting Disclosure Of Individuals' Photographs And Computerized Images By State Agencies.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (a) As used in this section:
- 2 (1) "Disclose" means to engage in any practice or conduct to make
- 3 available and make known, by any means of communication,
- 4 information pertaining to an individual to any other individual,
- 5 organization or entity;
- 6 (2) "Express consent" means an affirmative agreement given by the
- 7 individual who is the subject of a photograph or computerized image
- 8 that specifically grants permission to a state agency to release such
- 9 photograph or image to the requesting party. Such agreement shall (A)
- 10 be in writing or such other form as the state agency may determine in
- 11 regulations adopted in accordance with the provisions of chapter 54 of

12 the general statutes, and (B) specify an expiration date for such consent
13 and a procedure for the individual to withdraw such consent, as
14 provided in regulations adopted in accordance with the provisions of
15 chapter 54; and

16 (3) "Requesting party" means a legitimate business or an agent,
17 employee or contractor of a legitimate business.

18 (b) No state agency may disclose to the public an individual's
19 photograph or computerized image in connection with the issuance of
20 an identification card or other document by such state agency, unless
21 the executive head of such agency has obtained the express consent of
22 such individual. Such consent shall not be required for disclosure in
23 connection with any civil, criminal, administrative or arbitral
24 proceeding in any court or government agency or before any self-
25 regulatory body, including the service of process, an investigation in
26 anticipation of litigation and the execution or enforcement of
27 judgments and orders, pursuant to an order of any court provided the
28 requesting party is a party in interest to such proceeding or pursuant
29 to chapter 969 of the general statutes. A requesting party that receives
30 personal information under this section shall not redisclose such
31 personal information, except to an agent, employee or contractor of the
32 requesting party. Section 14-10 of the general statutes, as amended by
33 this act, shall apply in lieu of the provisions of this section to
34 photographs or images in connection with documents issued by the
35 Department of Motor Vehicles.

36 Sec. 2. Section 14-10 of the general statutes, as amended by section 2
37 of public act 99-77, section 1 of public act 99-232 and section 28 of
38 public act 99-268, is repealed and the following is substituted in lieu
39 thereof:

40 (a) For the purposes of this section:

41 (1) "Disclose" means to engage in any practice or conduct to make

42 available and make known, by any means of communication, personal
43 information contained in a motor vehicle record pertaining to an
44 individual to any other individual, organization or entity;

45 (2) "Motor vehicle record" means any record that pertains to an
46 operator's license, learner's permit, identity card, registration,
47 certificate of title or any other document issued by the Department of
48 Motor Vehicles;

49 (3) "Personal information" means information that identifies an
50 individual and includes an individual's photograph or computerized
51 image, Social Security number, operator's license number, name,
52 address other than the zip code, telephone number, or medical or
53 disability information, but does not include information on motor
54 vehicle accidents or violations, or information relative to the status of
55 an operator's license, registration or insurance coverage; and

56 [(4) "Consent" means a written authorization signed]

57 (4) "Express consent" means an affirmative agreement given by the
58 individual who is the subject of personal information that specifically
59 grants permission to the department to release such information to the
60 requesting party. Such agreement shall (A) be in writing or such other
61 form as the commissioner may determine in regulations adopted in
62 accordance with the provisions of chapter 54, and (B) specify an
63 expiration date for such consent and a procedure for the individual to
64 withdraw such consent, as provided in regulations adopted in
65 accordance with the provisions of chapter 54.

66 (b) A number shall be assigned to each motor vehicle registration
67 and operator's license and a record of all applications for motor vehicle
68 registrations and operators' licenses issued shall be kept by the
69 commissioner at the main office of the Department of Motor Vehicles.

70 (c) (1) All records of the Department of Motor Vehicles pertaining to

71 the application for registration, and the registration, of motor vehicles
72 of the current or previous three years shall be maintained by the
73 commissioner at the main office of the department. Any such records
74 over three years old may be destroyed at the discretion of the
75 commissioner. (2) Before disclosing personal information pertaining to
76 an applicant or registrant from such motor vehicle records or allowing
77 the inspection of any such record containing such personal information
78 in the course of any transaction conducted at such main office, the
79 commissioner shall ascertain whether such disclosure is authorized
80 under subsection (f) of this section, and require the person or entity
81 making the request to (A) complete an application that shall be on a
82 form prescribed by the commissioner, (B) provide two forms of
83 acceptable identification and (C) pay a fee of fifteen dollars to the
84 commissioner in addition to any fee required under section 14-50a. An
85 attorney-at-law admitted to practice in this state may provide juris
86 number to the commissioner in lieu of the requirements of
87 subparagraph (B) of this subdivision. The commissioner may disclose
88 such personal information or permit the inspection of such record
89 containing such information only if such disclosure is authorized
90 under subsection (f) of this section.

91 (d) The commissioner may disclose personal information from a
92 motor vehicle record pertaining to an operator's license or a driving
93 history or permit the inspection or copying of any such record or
94 history containing such information in the course of any transaction
95 conducted at the main office of the department only if such disclosure
96 is authorized under subsection (f) of this section. Any such records
97 over five years old may be destroyed at the discretion of the
98 commissioner.

99 (e) In the event (1) a federal court judge, federal court magistrate or
100 judge of the Superior Court, Appellate Court or Supreme Court of the
101 state, (2) a member of a municipal police department or a member of
102 the Division of State Police within the Department of Public Safety, (3)

103 an employee of the Department of Correction, (4) an attorney-at-law
104 who represents or has represented the state in a criminal prosecution,
105 or (5) a member or employee of the Board of Parole submits a written
106 request and furnishes such individual's business address to the
107 commissioner, such business address only shall be disclosed or
108 available for public inspection to the extent authorized by this section.

109 (f) The commissioner may disclose personal information from a
110 motor vehicle record to (1) any federal, state or local government
111 agency in carrying out its functions or to any individual or entity
112 acting on behalf of any such agency, or (2) any individual, organization
113 or entity that signs and files with the commissioner, under penalty of
114 false statement as provided in section 53a-157b, a statement on a form
115 approved by the commissioner, together with such supporting
116 documentation or information as the commissioner may require, that
117 such information will be used for any of the following purposes:

118 (A) In connection with matters of motor vehicle or driver safety and
119 theft, motor vehicle emissions, motor vehicle product alterations,
120 recalls or advisories, performance monitoring of motor vehicles and
121 dealers by motor vehicle manufacturers and removal of nonowner
122 records from the original owner records of motor vehicle
123 manufacturers to implement the provisions of the federal Automobile
124 Information Disclosure Act, 15 USC 1231 et seq., the Motor Vehicle
125 Information and Cost Saving Act, 15 USC 1901 et seq., the National
126 Traffic and Motor Vehicle Safety Act of 1966, 15 USC 1381 et seq., Anti-
127 Car Theft Act of 1992, 15 USC 2021 et seq., and the Clean Air Act, 42
128 USC 7401 et seq., as amended from time to time, and any provision of
129 the general statutes enacted to attain compliance with said federal acts;

130 (B) In the normal course of business by the requesting party, but
131 only to confirm the accuracy of personal information submitted by the
132 individual to the requesting party, provided the commissioner has
133 obtained the express consent of such individual;

134 (C) In connection with any civil, criminal, administrative or arbitral
135 proceeding in any court or government agency or before any self-
136 regulatory body, including the service of process, an investigation in
137 anticipation of litigation and the execution or enforcement of
138 judgments and orders, or pursuant to an order of any court provided
139 the requesting party is a party in interest to such proceeding;

140 (D) In connection with matters of motor vehicle or driver safety and
141 theft, motor vehicle emissions, motor vehicle product alterations,
142 recalls or advisories, performance monitoring of motor vehicles and
143 motor vehicle parts and dealers, motor vehicle market research
144 activities including survey research, motor vehicle product and service
145 communications, and removal of nonowner records from the original
146 owner records of motor vehicle manufacturers, provided the personal
147 information is not published, disclosed or used to contact individuals
148 except as permitted under subparagraph (A) of this subdivision;

149 (E) By any insurer or insurance support organization or by a self-
150 insured entity or its agents, employees or contractors, in connection
151 with the investigation of claims arising under insurance policies,
152 antifraud activities, rating or underwriting;

153 (F) In providing any notice required by law to owners or lienholders
154 named in the certificate of title of towed, abandoned or impounded
155 motor vehicles;

156 (G) By an employer or its agent or insurer to obtain or verify
157 information relating to a holder of a passenger endorsement or
158 commercial driver's license required under the federal Commercial
159 Motor Vehicle Safety Act of 1986, 49 USC 2304 et seq., and sections 14-
160 44 to 14-44m, inclusive;

161 (H) In connection with any lawful purpose of a labor organization,
162 as defined in section 31-77, provided (i) such organization has entered
163 into a contract with the commissioner, on such terms and conditions as

164 the commissioner may require, and (ii) the information will be used
165 only for the purposes specified in the contract other than campaign or
166 political purposes;

167 (I) For bulk distribution for surveys, marketing or solicitations
168 provided the commissioner has [entered into a contract with the
169 requesting individual, organization or entity under the provisions of
170 subsection (b) of section 14-50a and the Department of Motor Vehicles
171 has implemented methods and procedures that ensure that (i)
172 individuals are provided an opportunity, in a clear and conspicuous
173 manner, to prohibit such uses, and (ii) the information will be used
174 only for the purposes specified in the contract, and such surveys,
175 marketing and solicitations will not be directed to any individual who
176 has requested in a timely manner that such material not be directed to
177 such individual.] obtained the express consent of the individual to
178 whom such personal information pertains;

179 (J) For the purpose of preventing fraud by verifying the accuracy of
180 personal information submitted by an individual to a legitimate
181 business or an agent, employee or contractor of a legitimate business,
182 provided the commissioner has obtained the express consent of such
183 individual.

184 (g) Any person receiving personal information from a motor vehicle
185 record pursuant to subsection (f) of this section shall be entitled to use
186 such information for any of the purposes set forth in said subsection.

187 (h) Notwithstanding any provision of this section, the disclosure of
188 personal information from a motor vehicle record pursuant to
189 subsection (f) of this section shall be subject to the provisions of section
190 14-50a concerning (1) the fees that shall be charged for copies of or
191 information pertaining to motor vehicle records and (2) the authority
192 of the commissioner to establish fees for information furnished on a
193 volume basis in accordance with such terms and conditions regarding
194 the use and distribution of such information as the commissioner may

195 prescribe.

196 [(i) Notwithstanding the provisions of this section, the
197 commissioner shall not, on or before June 30, 2000, offer for sale or sell
198 individual photographs or computerized images collected for the
199 purpose of producing motor vehicle operator licenses.]

200 [(j)] (i) Notwithstanding any provision of this section that restricts or
201 prohibits the disclosure of personal information from a motor vehicle
202 record, the commissioner may disclose personal information contained
203 in any such record to any individual who is the subject of such
204 personal information or to any person who certifies under penalty of
205 false statement that such person has obtained the express consent of
206 the subject of such personal information.

207 [(k)] (j) The commissioner may adopt regulations in accordance with
208 chapter 54 to implement the provisions of this section.

209 Sec. 3. This act shall take effect July 1, 2000.

GAE Committee Vote: Yea 19 Nay 2 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Potential Cost, Potential Revenue Gain

Affected Agencies: Department of Motor Vehicles and Various State Agencies

Municipal Impact: None

Explanation**State Impact:**

This bill requires state agencies, except the Department of Motor Vehicles (DMV), to get express consent before disclosing computerized images or pictures; allows the DMV Commissioner to sell motor vehicle license photographs or computerized images; requires the DMV Commissioner to obtain express consent to disclose personal information under the following circumstances: 1) to confirm accuracy of personal information submitted by an individual to the requesting party in the normal course of business, 2) for bulk distribution for surveys, marketing or solicitations, or 3) for fraud prevention. It also brings motor vehicle laws into compliance with federal law by including “express consent” language. Such compliance is necessary to be eligible for federal highway funding.

State agencies which issue identification cards or other documents which require photographs or computerized images would experience minimal workload increases since the legislation requires these state

agencies to obtain “express consent” from the individuals subject of the photographs or computerized images. It is anticipated that the workload increase can be handled by staff without the need for additional resources.

There could be administrative costs to the DMV resulting from the promulgation of regulations and for creating a form and establishing procedures authorizing express consent; these could be performed within existing resources. Moreover, there is a potential revenue gain from selling or offering for sale motor vehicle license photographs or computerized images and from entering into contracts with vendors for the sale of personal information for fraud prevention or for bulk distribution, in certain circumstances. Since the latter two provisions are permissive and since the DMV has never engaged in the selling of photographs or computerized images, the revenue gain is indeterminate. Due to the need to obtain express consent, the DMV could experience a workload impact should it decide to disclose personal information for bulk distribution; however, it has been a long standing policy of the department not to disclose such information. The department has indicated that it intends to continue to observe this policy.

OLR Bill Analysis**sHB 5893*****AN ACT LIMITING DISCLOSURE OF INDIVIDUALS' PHOTOGRAPHS AND COMPUTERIZED IMAGES BY STATE AGENCIES.*****SUMMARY:**

This bill generally requires state agencies, except the Department of Motor Vehicles (DMV), to get express consent before publicly disclosing computerized images or pictures taken from applicants for state documents.

It brings the motor vehicle laws into compliance with federal law by requiring the DMV commissioner to get express consent before disclosing personal information in motor vehicle records to certain people. It eliminates a prohibition against the commissioner selling or offering for sale motor vehicle license photographs or computerized images.

It gives the commissioner express authority to disclose personal information for fraud prevention if he gets express consent. He can already disclose information to businesses that want to verify the accuracy of information they receive.

The bill removes the requirement for bulk survey, solicitation, and marketing distributors to contract with DMV for access to personal information in DMV records. It also eliminates a requirement for DMV to have procedures in place for releasing this information.

EFFECTIVE DATE: July 1, 2000

DISCLOSURE OF PHOTOGRAPHS AND COMPUTER IMAGES

With limited exceptions, the bill prohibits a state agency, other than DMV, from disclosing without consent pictures or computerized

images that they take of applicants for state documents. The agency head must get the subject's affirmative permission to disclose the information in writing or some other form provided in regulations. Even with this expressed consent, the agency may only disclose the information to a legitimate business or its agent, employee, or contractor. The bill prohibits the requesting party from re-disclosing any personal information he receives to anyone other than his agent, employee, or contractor.

The consent requirement does not apply to agencies disclosing the pictures or images in a civil, criminal, administrative, or arbitration proceeding. The exemption extends to service of process, enforcement or execution of judgments and orders, pre-litigation investigations, court orders if the requestor is a party to the action, and court-ordered registration for sex offenders under Megan's law.

The bill defines "disclose" as engaging in a practice or conduct to make information pertaining to one individual available and known to other people, organizations, or entities.

DMV DISCLOSURE OF PERSONAL INFORMATION

The bill requires the DMV commissioner to get the express consent of motor vehicle applicants, registrants, and license and learner's permit holders before disclosing personal information from their motor vehicle records to (1) businesses that want to check the accuracy of personal information they receive and (2) bulk distributors of surveys, solicitations, and marketing. It defines "express consent" as affirmative permission, which is in writing or some other form provided in regulations. The consent must have an expiration date and DMV must adopt regulations that establish a procedure for a person to withdraw his consent.

The bill eliminates a requirement for bulk distributors to have a volume-based contract with DMV and for DMV to have methods and procedures that ensure (1) subjects are given a clear and conspicuous opportunity to prohibit disclosure and (2) the information will be used only for purposes specified in the contract and will not be directed to anyone making a timely request not to get it.

EXPRESS AUTHORITY TO DISCLOSE FOR FRAUD PURPOSES

The bill authorizes the commissioner to disclose personal information to anyone who wants to prevent fraud by verifying the accuracy of personal information a person gives to a legitimate business or one of its agent, contractors, or employees. He must get the express consent of the owner of the information before disclosure.

BACKGROUND***Federal Transportation Funds***

To be eligible for federal transportation funds, states must get express consent before disseminating from a motor vehicle record a person's driver's photograph, social security number, or medical or disability information. The law exempts from this requirement information disclosed (1) to government agencies; (2) in civil, criminal, administrative, or arbitration proceedings; (3) for insurance purposes; or (4) to verify information regarding commercial driver's license holders (P.L. 106-69, Sec. 350).

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 19 Nay 2